federal register

Tuesday
January 6, 1981

Part XIII

The President—Office of the United States Trade Representative

Executive Order 12260—Agreement on Government Procurement

Presidential Documents

Executive Order 12260 of December 31, 1980

Agreement on Government Procurement

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511–2518), and Section 301 of Title 3 of the United States Code, and in order to implement the Agreement on Government Procurement, as defined in 19 U.S.C. 2518(1), it is hereby ordered as follows:

1–1 *Responsibilities.*

1–101. The obligations of the Agreement on Government Procurement (Agreement on Government Procurement, General Agreement on Tariffs and Trade, 12 April 1979, Geneva (GATT 1979)) apply to any procurement of eligible products by the Executive agencies listed in the Annex to this Order (eligible products are defined in Section 308 of the Trade Agreements Act of 1979; 19 U.S.C. 2518(4)). Such procurement shall be in accord with the policies and procedures of the Office of Federal Procurement Policy (41 U.S.C. 401 *et seq.*).

1–102. The United States Trade Representative, hereinafter referred to as the Trade Representative, shall be responsible for interpretation of the Agreement. The Trade Representative shall seek the advice of the interagency organization established under Section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) and consult with affected Executive agencies, including the Office of Federal Procurement Policy.

1–103. The interpretation of Article VIII:1 of the Agreement shall be subject to the concurrence of the Secretary of Defense.

1–104. The Trade Representative shall determine, from time to time, the dollar equivalent of 150,000 Special Drawing Right units and shall publish that determination in the **Federal Register.** Procurement of less than 150,000 Special Drawing Right units is not subject to the Agreement or this Order (Article I:1(b) of the Agreement).

1–105. In order to ensure coordination of international trade policy with regard to the implementation of the Agreement, agencies shall consult in advance with the Trade Representative about negotiations with foreign governments or instrumentalities which concern government procurement.

1–2. *Delegations and Authorization.*

1–201. The functions vested in the President by Sections 301, 302, 304, 305(c) and 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2511, 2512, 2514, 2515(c) and 2516) are delegated to the Trade Representative.

1–202. Notwithstanding the delegation in Section 1–201, the Secretary of Defense is authorized, in accord with Section 302(b)(3) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(b)(3)), to waive the prohibitions specified therein.

Jimmy Carter

THE WHITE HOUSE,
December 31, 1980.

Billing code 3195–01–M

ANNEX

1. ACTION
2. Administrative Conference of the United States
3. American Battle Monuments Commission
4. Board for International Broadcasting
5. Civil Aeronautics Board
6. Commission on Civil Rights
7. Commodity Futures Trading Commission
8. Community Services Administration
9. Consumer Product Safety Commission
10. Department of Agriculture (The Agreement on Government Procurement does not apply to procurement of agricultural products made in furtherance of agricultural support programs or human feeding programs)
11. Department of Commerce
12. Department of Defense (Excludes Corps of Engineers)
13. Department of Education
14. Department of Health and Human Services
15. Department of Housing and Urban Development
16. Department of the Interior (Excludes the Bureau of Reclamation)
17. Department of Justice
18. Department of Labor
19. Department of State
20. Department of the Treasury
21. Environmental Protection Agency
22. Equal Employment Opportunity Commission
23. Executive Office of the President
24. Export-Import Bank of the United States
25. Farm Credit Administration
26. Federal Communications Commission
27. Federal Deposit Insurance Corporation
28. Federal Home Loan Bank Board

29. Federal Maritime Commission

30. Federal Mediation and Conciliation Service

31. Federal Trade Commission

32. General Services Administration (Purchases by the National Tool Center, and the Region 9 Office in San Francisco, California are not included)

33. Interstate Commerce Commission

34. Merit Systems Protection Board

35. National Aeronautics and Space Administration

36. National Credit Union Administration

37. National Labor Relations Board

38. National Mediation Board

39. National Science Foundation

40. National Transportation Safety Board

41. Nuclear Regulatory Commission

42. Office of Personnel Management

43. Overseas Private Investment Corporation

44. Panama Canal Commission

45. Railroad Retirement Board

46. Securities and Exchange Commission

47. Selective Service System

48. Smithsonian Institution

49. United States Arms Control and Disarmament Agency

50. United States International Communication Agency

51. United States International Development Cooperation Agency

52. United States International Trade Commission

53. Veterans Administration

[FR Doc. 81-476
Filed 1-2-81; 3:10 pm]
Billing code 3195-01-C

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Application of Agreement on Government Procurement and Waiver of Discriminatory Purchasing Requirements

Section 1–103 of Executive Order 12188 delegates the functions of the President under Section 2(b) of the Trade Agreements Act of 1979 ("the Act") (19 U.S.C. 2503) to the United States Trade Representative ("Trade Representative"), who shall exercise such authority with the advice of the Trade Policy Committee. Section 1–201 of Executive Order 12260 delegates the functions of the President under Sections 301 and 302 of the Act (19 U.S.C. 2511, 2512) to the Trade Representative. Executive Order 12260 also provides in section 1–104 that the Trade Representative shall determine, from time to time, the dollar equivalent of 150,000 Special Drawing Right units.

Now, therefore, I, Robert D. Hormats, Acting United States Trade Representative, in conformity with the provisions of Section 2 of the Act, Sections 301 and 302 of the Act, and Executive Orders 12188 and 12260, do hereby determine, effective on the date of signature of this notice, that, with respect to the Agreement on Government Procurement ("the Agreement"):

1. The countries or instrumentalities listed in Annex 1 have become parties to the Agreement, and will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with Section 301(b)(1) of the Act, each of these countries is designated for purposes of Section 301(a) of the Act.

2. The countries listed in Annex 2 are least developed countries, as defined in Section 308 of the Act (19 U.S.C. 2518). In accordance with Section 301(b)(4) of the Act, each of these countries is designated for purposes of Section 301(a) of the Act.

3. With respect to eligible products (as defined in Section 308(4) of the Act) of the countries or instrumentalities designated above for purposes of Section 301(a) of the Act, and suppliers of such products, the application of any law, regulation, procedure, or practice regarding Government procurement that would, if applied to such products and suppliers, result in treatment less favorable than that accorded—

(A) to United States products and suppliers of such products; or

(B) to eligible products of another foreign country or instrumentality which is a party to the Agreement and suppliers of such products, shall be waived.

This waiver shall be applied by all Executive agencies listed in Annex A of Executive Order 12260 in consultation with, and when deemed necessary at the direction of, the Trade Representative.

4. The designations in paragraphs 1 and 2 above and the waiver in paragraph 3 above are subject to modification or withdrawal by the Trade Representative.

5. (a) Pursuant to Section 302 of the Act, Executive agencies are prohibited after January 1, 1981, from procuring any products (A) which are products of a foreign country or instrumentality which is not designated under Section 301(b) of the Act, and (B) which would otherwise be eligible products. This prohibition will last until such foreign country or instrumentality is designated under Section 301(b) of the Act.

(b) The above prohibition shall be deferred for a two-year period beginning January 1, 1981, except for products of major industrial countries. Major industrial countries include the member countries of the European Communities, Canada, and Japan.

(c) The above two-year delay may be terminated at any time (causing the prohibition to come into effect) for any or all countries.

6. The dollar equivalent of 150,000 Special Drawing Right units is $196,000. This determination may be modified from time to time as appropriate.

Dated: January 1, 1981.

Robert D. Hormats,

Acting United States Trade Representative.

Annex 1

Austria	Italy
Belgium	Japan
Canada	Luxembourg
Denmark	Netherlands
Federal Republic of Germany	Norway
Finland	Singapore
France	Sweden
Hong Kong	Switzerland
Ireland	United Kingdom

Annex 2

Bangladesh	Malawi
Benin	Maldives
Bhutan	Mali
Botswana	Nepal
Burundi	Niger
Cape Verde	Rwanda
Central African Republic	Somalia
Chad	Western Samoa
Comoros	Sudan
Gambia	Tanzania U.R.
Guinea	Uganda
Haiti	Upper Volta
Lesotho	Yemen AR

[FR Doc. 81–477 Filed 1–2–81; 3:32 pm]

BILLING CODE 3190–01–M

Statement Concerning Executive Order 12260 on Agreement on Government Procurement

On December 31, 1980, the President signed Executive Order 12260 ("the Order") implementing the Agreement on Government Procurement (the "Agreement") and Title III of the Trade Agreements Act of 1979 (the "Act") (19 U.S.C. 2511–2518), effective January 1, 1981.

The Agreement is one of the trade agreements concluded during the Tokyo Round of Multilateral Trade Negotiations. The Agreement was approved by the Congress by Section 2 of the Act (19 U.S.C. 2503). The United States Trade Representative ("Trade Representative"), acting under Section 2(b) of the Act and Section 1–103(b) of Executive Order 12188, accepted the Agreement on behalf of the United States without reservation on December 30, 1980. The Agreement enters into force with respect to the United States on January 1, 1981.

The purpose of the Order is to delineate agency responsibilities for implementing the Agreement and to delegate certain authority for implementing the Agreement. Specifically,

Section 1–101 of the Order requires all agencies listed in the Annex thereto to observe the obligations of the Agreement in their purchases of "eligible products". The definition of "eligible products" is that contained in section 308(4) of the Act (19 U.S.C. 2518(4)). To qualify as an eligible product, a product must satisfy three criteria. The product must be:

1. From a country or instrumentality that is a party to the Agreement;

2. Procured for an Executive agency which is specified in the Order as being subject to the Agreement;

3. Procured in large enough quantities that the contract price exceeds 150,000 Special Drawing Right units.

Section 1–102 gives the Trade Representative the responsibility to interpret the Agreement. This responsibility follows the Trade Representative's broader authority granted in section 1(b)(3) of Reorganization Plan No. 3 of 1979 (44 FR 69173, 93 Stat. 1381), to "issue policy guidance to departments and agencies on basic issues of policy and interpretation * * *" relating to, *inter alia*, the implementation of international trade agreements.

Section 1–103 provides that interpretation of Article VIII:1 of the

Agreement, relating to national defense, shall be subject to the concurrence of the Secretary of Defense.

Section 1-104 gives the Trade Representative the responsibility to make a determination of the dollar equivalent of the 150,000 Special Drawing Right units threshold for coverage of procurement contracts. The Special Drawing Right is the unit of account of the international monetary fund, and is a weighted average of the values of a group of currencies including the U.S. dollar. This determination will be published annually in the **Federal Register**, or more often if appropriate.

Section 1-105 provides that agencies shall consult in advance with the Trade Representative about negotiations with foreign governments or instrumentalities which concern government procurement. The provision was included to ensure the coordination of international trade policy as it relates to the implementation, including negotiations relating to additional coverage, of the Agreement.

Section 1-201 delegates the functions of the President under Title III of the Act to the Trade Representative with the exception of the functions of the President under Section 303 of the Act (19 U.S.C. 2513), which were previously delegated to the Trade Representative in Section 1-103(b) of Executive Order 12188. These functions include:

—Waiver of discriminatory purchasing requirements under Section 301(a) of the Act (19 U.S.C. 2511(a));
—Designation of eligible countries and instrumentalities under Section 301(b) of the Act (19 U.S.C. 2511(b));
—Prohibiting procurement from non-designated countries or instrumentalities under Section 302 of the Act (19 U.S.C. 2512), as well as implementing the two-year delay and case-by-case waiver of purchases under the same Section;
—Reporting and consultation requirements under Sections 302(c), 302(d), 304, 305 and 306 of the Act (19 U.S.C. 2512(c), 2512(d), 2514-2516); and
—Other functions of the President enumerated in Title III of the Act.

Section 1-202 implements the provisions of Section 302(b)(3) of the Act (19 U.S.C. 2512(b)(3)), authorizing the Secretary of Defense to waive the purchasing prohibition of Section 302(a)(1) in the context of reciprocal procurement agreements.

For agencies not included in the Annex to the Order, no change in present procurement practices will be required. Furthermore, to the extent procurement by agencies listed in the Annex is outside the Agreement, the Order will not apply. Procurement not covered by the Agreement includes:

—Contracts of a value not over 150,000 SDR's;
—Procurement by agencies not in the Order, even if done through agencies listed in the Order.
—Contracts where the value of services exceeds 50% of the contract price.

Also, service contracts *per se*, including construction contracts, research and development and transportation or cargo preference schemes, will not be affected by the Agreement.

Under the terms of the Agreement, procurements involving eligible products may be set aside for small business concerns; however, procurements involving eligible products may not be set aside for labor surplus area concerns unless the set-aside is also for small business concerns. The priority of Sections 15(e) and (f) of the Small Business Act, as amended by section 117 of Pub. L. 96-302 (94 Stat. 839), shall prevail.

The provisions of the Act and this Order do not relieve agencies of their obligations to implement the requirements of Pub. L. 95-507 (92 Stat. 1757, 15 U.S.C. 683).

Robert C. Cassidy,

General Counsel.

[FR Doc. 81-478 Filed 1-2-81; 3:32 pm]

BILLING CODE 3190-01-M

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Federal Register

Vol. 46, No. 3

Tuesday, January 6, 1981

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Land Management Bureau—

80828 12–8–80 / California; Partial revocation of Public Land Order No. 706

80827 12–8–80 / Nevada; Transfer of jurisdiction: Modification of Public Land Order No. 2555

80828 12–8–80 / Oregon; Partial revocation of Executive Order of November 24, 1903 in regards to 68.60 acres of land withdrawn as rock quarry sites for use by the U.S. Army Corps of Engineers

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing January 5, 1981

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: January 16 and 30; February 13 and 27; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202–523–5235.

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

Code of Federal Regulations

Revised as of July 1, 1980

Quantity	Volume	Price	Amount
_____	Title 41—Public Contracts and Property Management (Chapters 3 to 6)	$8.00	$_____
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		Total Order	$_____

A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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